



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Qualimetrics, Inc.

File: B-227044.3

Date: July 28, 1987

DIGEST

1. Where the protester learned prior to bid opening under step two of two-step sealed bid procurement that an item model it proposed under step one was not available, protest that the agency should cancel the invitation for bids and allow the protester to revise its proposal is untimely where not filed before bid opening.

2. Bidders do not have the option of changing their step-one proposals during step two of a two-step sealed bid procurement.

DECISION

Qualimetrics, Inc. protests the Department of the Army's failure to afford it the opportunity to change its proposal during step two of a two-step sealed bid procurement under invitation for bids (IFB) No. DAAD07-87-B-0002. Step one involved the soliciting of technical proposals to provide automated navigational aid systems and a large quantity of radiosondes (devices to measure meteorological conditions.)

We dismiss the protest.

Qualimetrics' technical proposal offered a specific model of radiosonde produced by a firm that turned out to be the only other competitor included in the price competition under step two. After the issuance of the step-two IFB, and before bid opening, Qualimetrics sought a price quotation from its competitor, which responded that it would not make the items available to Qualimetrics.

Qualimetrics submitted its bid without protest, but the bid was rejected as nonresponsive based on the Army's finding that Qualimetrics planned to furnish radiosondes it had not proposed in its step-one proposal. Qualimetrics protested to our Office on the ground that the Army's determination related to the firm's responsibility and thus should have been referred to the Small Business Administration (SBA)

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for a Certificate of Competency (COC) review. The protest was resolved when the Army agreed to make the SBA referral. The SBA affirmed the agency's nonresponsibility determination by refusing to issue a COC, and the Army made award to the other firm on April 8.

Qualimetrics now argues that the Army, upon being informed that Qualimetrics would not be provided with the radiosonde upon which it based its proposal, should not have proceeded with step-two, but instead should have provided it an opportunity to revise its step-one proposal. The protester further argues that the Army should have accepted Qualimetrics' low bid under step two based on a substituted model of radiosonde.

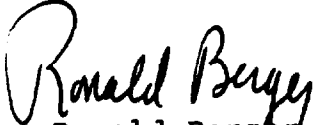
The protester's first argument is untimely. Under our Bid Protest Regulations, a protest of an alleged solicitation impropriety must be filed prior to the next deadline for receipt of offers. 4 C.F.R. § 21.2(a)(1) (1986). Here, since Qualimetrics' allegation is based on its competitor's refusal to furnish it with radiosondes, which occurred prior to the step-two bid opening, this allegation had to be raised prior to the December 2, 1986 step-two bid opening date. Because this protest was not received until July 2, this allegation is clearly untimely and will not be considered.

The protester, recognizing the untimeliness of its protest, argues that we should invoke the exception to our timeliness requirements for protests involving significant issues. 4 C.F.R. § 21.2(c). We reserve this exception, however, for issues of widespread interest to the procurement community that our Office has not previously considered. See World-Wide Security Services, Inc.--Reconsideration, B-225270.2, Mar. 17, 1987, 87-1 CPD ¶ 294.

We do not view the protest as raising significant issues within the meaning of our Regulations. In any case, we previously have considered the general issue of the propriety of proposal revisions in a two-step procurement. See American Telephone and Telegraph Co. , B-193454, May 21, 1979, 79-1 CPD ¶ 365. For the protester's information, there is no legal requirement that a contracting officer cancel a step-two IFB and reopen negotiations under step one to give an offeror the opportunity to change its proposal.

As for the second issue, the Army's refusal to accept Qualimetrics' low step-two bid based on different model items than it proposed under step one, was unobjectionable; bidders do not have the option of changing their step-one proposals during step two. Id.

The protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger".

Ronald Berger
Deputy Associate
General Counsel